Han Feizi's Genealogical Arguments

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ABSTRACT

Han Feizi's criticisms of Confucian and Mohist political recommendations are often thought to involve materialist or historicist arguments, independently of their epistemological features. Drawing largely on Amia Srinivasan's recent taxonomy of genealogical arguments, this paper proposes a genealogical reading of passages in "The Five Vermin [五蠹 *wudu*]" and "Eminence in Learning [顯學 *xianxue*]." This reveals Han Feizi's arguments to be more comprehensively appreciated as problematizing Confucian and Mohist political judgments as arising from undermining contingencies, rendering them irrelevant, if not detrimental, to any lasting excellence of a state. In doing this, it is also suggested that there is a 'master argument' underlying Han Feizi's criticisms, according to which the epistemology of the Confucians and Mohists are fundamentally unreliable.

Introduction

Approaches thus far to Han Feizi's criticisms of the political recommendations of the Confucians and Mohists [儒墨 Ru-Mo], in the infamous chapters Ch. 49 "The Five Vermin [五蠹 *wudu*]" and Ch. 50 "Eminence in Learning [顯學 *xianxue*]," may be broadly characterized as materialist or historicist (or some combination of the two). That is, respectively, they interpret him as either as privileging "natural facts that constrain and provide conditions for an ordered state" over Ru-Mo talk of morality (Harris 2013a, 107–9), or as targeting the "historical constancy" of the Ru-Mo, in that they fail to appreciate "the uniqueness of the historical situation in which one finds oneself and by which one's circumstances differ from those of the past" (Cook 2015, 67–8; cf. Hutton 2008). Correspondingly, rejoinders to Han Feizi's criticisms, so construed, have largely been made on the bases of a more expansive morality that takes natural facts into account, or attending to the pedagogical nature of historical imagination (e.g. Kim 2012, Harris 2013b, Wilson 2018).[1] In this chapter, I propose a third, more comprehensive, *genealogical* approach to Han Feizi's criticisms: that Ru-Mo political judgments arise problematically out of contingencies in a way that renders them inappropriate, even detrimental, for statecraft. That is, the Ru-Mo are (allegedly) quixotic and ignorant, because they are *epistemologically deficient*.

Over the past couple of decades, there has been a growing interest in theorizing about genealogy as a philosophical method (e.g. Saar 2002, Koopman 2013, Srinivasan forthcoming)—where 'genealogy' is broadly understood to mean "a narrative that tries to explain a cultural phenomenon [e.g. a judgment, concept, or practice] by describing a way in which it came about, or could have come about, or might be imagined to have come about" (Williams 2002, 20). Perhaps the most famous instance of the use of genealogical argumentation is Nietzsche's *On the Genealogy of Morals*, but more contemporary instances range from ongoing conceptual engineering in analytic social philosophy (e.g. Fricker 2007), experimental philosophy's (aka x-phi) cleansing of philosophical practice (Srinivasan 2015, 326–7; cf. Knobe and Nichols 2014), to the decolonization of Critical Theory (Allen 2016). However, at the same time, it is crucial that such increasing theoretical attention to the genealogical method should also pay heed to its *own* history (or histories) as a method throughout the history of philosophy.[2] This is

[1] I will largely be concerned with Confucian rejoinders here, since almost all of them have been made on behalf of the Confucians (cf. Harris 2020).
[2] For some examples of attempts at a 'genealogy of genealogy' largely within the Anglo-European canon, see Forster 2011 and Srinivasan 2015.

especially important if any critical genealogy is to avoid what Amia Srinivasan calls the "spectre of self-defeat" (Srinivasan 2015, 328), where the genealogical sceptic would have neither reason to accept their own argument's conclusion nor be able to offer others reasons to accept it—which has more than epistemological ramifications (e.g. neocolonialism in philosophy).

While I do not imagine Han Feizi to have been unique in employing any sort of genealogical method in the classical Chinese canon,[3] I am particularly interested here not just in how his synoptic approach to the philosophers before him is an important starting point for a 'genealogy of genealogy' in Warring States philosophy, but also in how attending to Han Feizi's critiques of the Ru-Mo as genealogical helps us to better appreciate their hitherto neglected *epistemological* dimension. This is especially because the implicit epistemology of this explicitly political text has largely been underemphasized by scholars—with the fleeting exception of those attending to Ch. 12 "The Difficulties of Persuasion [說難 *shuinan*]" and Chs. 22–23 "Collected Persuasions [說林 *shuilin*]" (e.g. Goldin 2013, Hunter 2013).[4] As such, my aim here is to mainly show how, for Han Feizi, a significant problem with Ru-Mo recommendations is distinctively epistemological in character and that the vulnerability of such judgments to genealogical contingency is endemic to the very political epistemology assumed by the Ru-Mo. As such, the aforementioned rejoinders would not be sufficient to overcome the full extent of Han Feizi's criticisms.

For the purposes of this investigation, I approach "The Five Vermin" and "Eminence in Learning" as containing genealogical argumentation inasmuch as I take them to involve what would be called 'debunking arguments' in the idiom of analytic philosophy.[5] That is, I take them to involve a kind of genealogical argumentation that analyzes judgments (often those that purport necessity) as unjustified products given the contingencies of their origins (cf. Srinivasan 2015).[6] While, for any justified proposition p, a straightforward counter-argument might provide overriding epistemic defeat by asserting $\neg p$ with greater justification, a debunking argument would instead provide *undermining* defeat, asserting "either that the source [of justification for p] is defective in some way […] or that the source is operating in an environment for which it was not well adapted" (Casullo 2003, 45–6).[7] For example, 'you only believe that onions would cure you because you read it on a Facebook post'. This kind of 'shameful', negative genealogical argumentation is often contrasted with a 'vindicatory' positive kind, which analyze judgments as justified products, given the contingencies of their origins (Williams 2002, 35–8): examples of which would include Bernards Williams on truth, Miranda Fricker on testimonial justice, and perhaps even Xunzi on the Confucian rituals (see Cua 2000). A debunking approach would not be inconsistent with Han Feizi's own advice in "The Difficulties of Persuasion," where he remarks that if someone to be persuaded "has some lofty objective in mind and yet [reality does not match up to it], you should do your best to point out to him the faults and bad aspects of such an objective and make it seem a virtue not to pursue it" (*Han Feizi*, trans. Watson, 75).[8]

In what follows, then, I first briefly outline the epistemological framework that I am broadly assuming for the late Warring States thinkers (§1). The epistemology of Han Feizi's criticisms in "The Five Vermin" and "Eminence in Learning" will then be revealed by way of interpreting passages from them alongside Srinivasan's taxonomy of negative genealogical arguments (§2). In doing so, I will also suggest that there is a 'master argument' (from unreliability) which underlies the rest (§3).

1. Epistemology in the Late Warring States Period

[3] Cf. Michael Puett's argument that the *Daodejing* makes "a genealogical claim in which the adept is able to appropriate and thus gain the powers of the ultimate ancestor of the cosmos" (Puett 2002, 167).
[4] In stark contrast to the attention paid to the epistemology of, say, the *Zhuangzi* (see Kjellberg and Ivanhoe 1996).
[5] This is, of course, not to say that it is the only way genealogy would feature, or might be approached, in the text.
[6] For other analyses of the philosophical use of genealogy in the analytic idiom, see, e.g., Williams 2000, Geuss 2002.
[7] For a recent discussion of overriding vs undermining epistemic defeaters, see Melis 2014.
[8] Watson's original translation for 而實不能及 *ershibunengji* is 'yet does not have the ability needed to realize it'.

In order to show how such a reading would even make sense to begin with, how I will be using 'epistemology' here should first be clarified, such that the historical dissonances in appealing to Srinivasan's taxonomy would not threaten to derail the approach. Of course, I do not mean that we can find straightforward translations of contemporary anglophone terms like 'truth', 'judgment', 'knowledge' in the *Han Feizi*. Rather, I will be using Chris Fraser's recent framework for distinctions, judgments, and reasoning in classical Chinese thought, which allows us a way to attend to *functional equivalences* between contemporary epistemology and the discussions of the relationship between *ming* [名] and *shi* [實] in the text.[9] One may perhaps hesitate at Fraser's extension of the Mohists and Xunzi's epistemology to characterize the epistemological framework of the rest of the classical Chinese period, but, insofar as we are considering Han Feizi's criticisms, it is reasonable to think that the reputed student of Xunzi would regard Confucians as working within such a framework.

I thus follow Fraser in understanding correct judgments to correspond to the correct tallying of *ming* [名] and *shi* [實], where one has the correct "attitude of distinguishing an object [*shi*] as being of the kind denoted by some term [*ming*]" (Fraser 2013, 10). To refer, or not to refer, to a given *shi* (like a bladed weapon) by a *ming* (like 'sword')—to affirm that something is [是 *shi*] or is not [非 *fei*]—is to distinguish whether the *shi* under consideration is similar to, or different from, a *model* [法 *fa*][10] of the kind denoted through an analogical comparison (like Moye).[11] A certain judgment being true, then, is a matter of there being a similarity between its implied *shi* and the paradigmatic *shi* in the *fa*, and having knowledge, further, is a matter of having "a reliable ability to draw distinctions [among objects] correctly, manifested by an ability to apply terms correctly."[12] As we can see from this, justification takes an explicit reliabilist form here.[13] Along the same lines, reasoning "is treated as a process of considering how some acts of term predication, or drawing distinctions, normatively commit one to making further, analogous predications or drawing further, analogous distinctions" (Fraser 2013, 4). Argumentation then, ordinarily, takes the form of the activity of ascertaining whether a certain object is analogous to a proposed model, asserting and explaining that it is (shi_{is}), if so, and that it is not ($fei_{\text{is not}}$), if not. For example, if one disputes over whether a bladed weapon should be referred to as a sword, one would cite the Moye and explain why the given weapon is similar or not to it.[14]

Models [*fa*] have been understood for at least three different phenomena in the classical Chinese texts: model *agents* (such as the sage-king Yao), model *actions* (such as being frugal), and model *objects* (such as Moye). Whether such semantic distinctions were actually made back then is an open question. But what matters is that in all three senses (but especially the first two), judgments are emphasized in the texts as being action-guiding. So we can see from all this how such epistemic models would be politically crucial for state administration: they are meant to preserve and strengthen the state through their role in the discriminations, and consequent behaviour, of both ruler and ruled. After all, the term '*fa*', as Sor-Hoon Tan notes, had varied meanings in the Warring States period, ranging from 'standards', 'models', 'regulations', to 'laws' (Tan 2011).[15]

By highlighting the regulatory role of models in political judgments this way, we open up the possibility of approaching Han Feizi's criticisms of the Ru-Mo political recommendations as also epistemological

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[9] For other approaches to early Chinese epistemology, see, e.g., Harbsmeier 1993, Geaney 2002, Rošker 2002, and Allen 2015.

[10] also, standard [表 *biao*] or paradigm [隆 *long*].

[11] Moye [鏌鋣] was the legendary sword of King Helü of Wu (cf. *Zhuangzi* Ch. 6, *Xunzi* 15.59–60, 16.3).

[12] For other accounts of truth in classical Chinese thought, see Hansen 1985 and McLeod 2016.

[13] For reliabilism in contemporary epistemology, see Goldman 2012.

[14] This is perhaps analogous to aristocratic resemblance nominalism in analytic metaphysics, in which a given object belongs to a particular property class inasmuch as it resembles the appropriate exemplars (Rodriguez-Pereyra 2002, cf. Price 1953).

[15] It is disputed whether '*fa*' changed its meaning during the late Warring States period to only refer to penal codes, but in either case this would not affect the epistemic role that *fa* plays in judgment (see Graham 1989, Hansen 1994).

criticisms—approaching them as arguments against the tenability of the models assumed by the Ru-Mo's political judgments.[16] For Han Feizi, "*fa* is the key to all sociopolitical affairs, the *ming-shi* relationship is not merely a linguistic issue; rather, it is a sharp embodiment of sociopolitical affairs" (Sun 2015, 75). The models of the Confucians would be understood as the Zhou Rituals [周禮 *zhouli*], while those of the Mohists were the Three Standards/Models [三表/法 *sanbiao/fa*]—both converging on appeals to the affairs of the sage-kings as models (such as the paradigmatic case of benevolent action being Yao's abdication).[17] Moreover, during Han Feizi's time, the Ru-Mo would even come to regard Confucius and Mozi as models.

But why approach them as *undermining* arguments against the tenability of the models of the Ru-Mo rather than ordinary overriding refutations of their political judgments? To answer this, we must briefly turn to observe Han Feizi's own use and discussion of models, which are circumscribed within the more explicitly political discourse of the text. He explicitly equates *ming* with official titles and speeches [言 *yan*], and *shi* with performances [形 *xing*] and affairs [事 *shi*],[18] and we might thus understand correct political judgments for him to involve the tallying of *official titles and speeches* with *affairs and performances*, according to the appropriate models [*fa*]. Han Feizi notes that the enlightened (ideal) ruler is to "use laws [*fa*] to govern the state, disposing of all matters on their basis alone" (*Han Feizi*, "On Having Standards [有度 *youdu*]," trans. Watson, 28), and this involves using "laws [*fa*] to rectify the mind" (*Han Feizi*, "How to Use Men [用人 *yongren*]," trans. Liao 1959a, 271).[19]

All this still runs largely parallel to the political epistemology of the Ru-Mo. In the *Analects*, for example, Confucius remarks that when the Zhou Rituals "do not flourish, […] the common people will not know where to put hand and foot" (*Analects* 13.3). Where Han Feizi and the Ru-Mo diverge, then, is that instead of appealing to the affairs of the sage-kings as appropriate political models for the preservation and strengthening of the state, Han Feizi holds that the models are to be established by the enlightened ruler himself. The ruler's subordinates are then to judge (and hence act) according to these established models. For the ruler himself, however, his correct political judgment is not found in appealing to past models, but rather he "lets names [*ming*] define themselves and affairs [*shi*] reach their own settlement [令名自命也 *lingmingzimingye*，令事自定也 *lingshizidingye*]" (*Han Feizi*, "The Way of the Ruler [主道 *zhudao*]," trans. Watson, 15). It is then upon this basis that the ruler is to craft models for his subordinates.

To note, 'letting names define themselves and affairs reach their own settlement' may admit of at least two interpretations given the text. In the first interpretation, the ruler is to employ models that are not from the sage-kings, but instead from his own response to what is shown in the present circumstances to directly contribute to the preservation and strengthening of the state (notably, approximating to one of the Mohists' own Standards; cf. Harris 2020). As Randall P. Peerenboom puts it, "In the final word, law is what the ruler says it is; it is what pleases the ruler" (Peerenboom 1993, 143). In the second interpretation, however, the ruler is to attend to the way things naturally are, which could perhaps be conceived of as models of nature—especially if we are to take his references to the Huang-Lao tradition as reflective of a commitment to a naturalism about normativity.[20] Paul R. Goldin notes that this ambiguity could be due to a possible range of factors: textual corruption, editorial inconsistencies, ministerial rhetoric, or a strategic appropriation of Huang-Lao vocabulary (Goldin 2013, 16).

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[16] This may resonate with the burgeoning field of 'ideational political epistemology' (see Friedman 2014).

[17] Note that, in criticizing the *fa* of the sage-kings, Han Feizi need not also address the other two standards/models of the Mohists, as the three are taken collectively (see Loy 2008, 459).

[18] Jane Geaney suggests that *ming-xing* were aural and visual pairs (Geaney 2002, 174)

[19] W. K. Liao substitutes '矯 *jiao* [rectiify]' for '教 *jiao* [educate]' in "以法教心 *yifajiaoxin*."

[20] Cf. Sima Qian's characterization of Han Feizi as "[coming] home to his roots in Huang-Lao" (Sima Qian 63.2146, quoted and translated in Goldin 2013, 15; cf. Kim 2010, Queen 2013).

As it stands, it is not pertinent that the present inquiry determines which of the two interpretations should have primacy, only that Han Feizi does not seem to be able to refute Ru-Mo claims by straightforwardly appealing to the same models shared with his opponents and explaining why their discriminations are not analogous to their models (the way argumentation would ordinarily proceed, as observed by Fraser). For in trying to problematize the affairs of the sage-kings as appropriate political models, Han Feizi cannot argue that the ruler should abandon them by appealing to these very same models—a different mode of political argumentation is therefore warranted. As such, his arguments might be better appreciated as underscoring the 'shameful' origins of Ru-Mo judgments that employ such models: that is, not so much arguing against them (providing overriding epistemic defeat) but debunking them.

2. Taxonomy of Genealogical Arguments in the *Han Feizi*

Taking Srinivasan's taxonomy as a heuristic model allows us a clearer picture of the genealogical (and hence epistemological) nature of Han Feizi's argumentation. She identifies five common kinds of genealogical arguments: the *Argument from Insensitivity,* the *Argument from Explanatory Inertness*, the *Argument from Coincidence*, the *Argument from Probability on Evidence*, and the *Argument from Unreliability*. The first three are already tacitly assumed in materialist and historicist readings of the "Five Vermin" and "Eminence in Learning." But I hope to ultimately suggest not only that all five of these are actually present in these chapters, but also that the Argument from Unreliability undergirds the rest of the other arguments.

2.1. Argument from Insensitivity

The *Argument from Insensitivity* (AI) is as follows (Srinivasan 2015, 329):

(P1) Your judgment that p is insensitive to the truth of *p*.
(P2) Sensitivity is a condition on knowledge.
(P3) Therefore, you do not know *p*.

When one's judgment is sensitive to the truth of *p*, if *p* were false, one would not judge that *p*. But where one would believe *p*, even if *p* were false, one is insensitive to its truth. We can observe this in the opening passage of "The Five Vermin," which contrasts the ways of antiquity with contemporary practices:

> 今有搆木鑽燧於夏后氏之世者，必為鯀、禹笑矣。有決瀆於殷、周之世者，必為湯、武笑矣。然則今有美堯、舜、湯、武、禹之道於當今之世者，必為新聖笑矣。是以聖人不期脩古，不法常可，論世之事，因為之備。
>
> Now if anyone had built wooden nests or drilled for fire in the time of the Xia dynasty, Gun and Yu would have laughed at him, and if anyone had tried to open channels for the water during the Yin or Zhou dynasties, Tang and Wu would have laughed at him. This being so, if people in the present age go about exalting the ways of Yao, Shun, Yu, Tang, and Wu, the sages of today are bound to laugh at them. For the sage does not try to practice the ways of antiquity or to abide by a fixed standard [*fachang* 法常], but examines the affairs [*shi*] of the age and takes what precautions are necessary. (*Han Feizi*, "The Five Vermin," trans. Watson, 97–8)

Implicit in Han Feizi's criticism here is that there *are* indeed 'people in the present age' who go about exalting the ways of the sage-kings: the Ru-Mo. They would believe that the ruler needs to do what the sage-kings did, as their political models (in this case, model *actions*), in order to govern even if it is *not* the case that the ruler needs to do what the sage-kings did in order to govern—and, in fact, it is not.

In argument form, the above can be represented as:

(H1) The Ru-Mo judgments that the ruler needs to fixate on what the sage-kings did (e.g. build wooden nests) is insensitive to the truth of the ruler needing to do what the sage-kings did.
(H2) Sensitivity is a condition of knowledge.
(H3) Therefore, the Ru-Mo judgments that the ruler needs to do what the sage-kings did does not constitute knowledge.

Implied here is that, in adopting these affairs of the sage-kings as political models, Ru-Mo judgments are insensitive to their lack of resemblance with what conduces the preservation and strengthening of the state in the affairs of the age. So the Ru-Mo judgments should not be relied upon by the ruler in statecraft due to its insensitivity to the natural facts.

However, as Eirik Lang Harris observes, this argument alone would only be sufficient to undermine "a Confucian straw man" (Harris 2013b, 44). He and Sungmoon Kim have argued (to my mind) decisively that Confucius, Mencius, and Xunzi's conceptions of virtuous action necessarily included the agent's sensitivity to the particularities of a given sociopolitical situation—even adapting laws accordingly (Kim 2012, Harris 2013b). Both the characteristics of the virtuous action and agent are inextricable, and so the Confucians themselves would not recommend simply transposing actions that were appropriate in situations of the distant past to those of the present.

Nevertheless, Han Feizi's use of genealogical arguments is more varied than AI. And such variation should not be surprising, given his advice that "the difficult thing about persuading others is not that one lacks the knowledge needed to state his case nor the audacity to exercise his abilities to the full" but to "know the mind of the person one is trying to persuade and to be able to fit one's words to it" (*Han Feizi*, "The Difficulties of Persuasion," trans. Watson, 74).

2.2. Argument from Explanatory Inertness

The *Argument from Explanatory Inertness* (AEI) is as follows (Srinivasan 2015, 330–1):

(P4) Your judgment that *p* can be explained without mention of its (putative) truth.
(P5) When a judgment can be explained without mention of its (putative) truth, then that judgment is unjustified.
(P6) Therefore, your judgment that *p* is unjustified.

A judgment is explanatorily inert when it can be explained without making recourse to its (putative) truth (recall truth as being a matter of resemblance to a model). Consider Han Feizi's explanation of why the Ru-Mo judge it appropriate for a ruler to relinquish his rule in statecraft, which is ordinarily explained by the Ru-Mo with an appeal to the models of the sage-kings Yao and Yu's relinquishments:

> 堯之王天下也，茅茨不翦，采椽不斲，糲粢之食，藜藿之羹，冬日麑裘，夏日葛衣，雖監門之服養，不虧於此矣。禹之王天下也，身執耒臿以為民先，股無胈，脛不生毛，雖臣虜之勞不苦於此矣。以是言之，夫古之讓天子者，是去監門之養而離臣虜之勞也，古傳天下而不足多也。今之縣令，一日身死，子孫累世絜駕，故人重之；是以人之於讓也，輕辭古之天子，難去今之縣令者，薄厚之實異也。
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> When Yao ruled the world, he left the thatch of his roof untrimmed, and his speckled beams were not planed. He ate coarse millet and a soup of greens, wore deerskin in winter

> days and rough fiber robes in summer. Even a lowly gatekeeper was no worse clothed and provided for than he. When Yu ruled the world, he took plow and spade in hand to lead his people, working until there was no more down on his thighs or hair on his shins. Even the toil of a slave taken prisoner in the wars was no bitterer than his. Therefore those men in ancient times who abdicated and relinquished the rule of the world were, in a manner of speaking, merely forsaking the life of a gatekeeper and escaping from the toil of a slave. Therefore they thought little of handing over the rule of the world to someone else. […] In the matter of relinquishing things, people thought nothing of stepping down from the position of Son of Heaven in ancient times, yet they are very reluctant to give up the post of district magistrate today; this is because of the difference in the actual benefits received. (*Han Feizi*, "The Five Vermin," trans. Watson, 98–9)

In argument form, the above can be represented as:

(H4) The Ru-Mo judgments that the relinquishing of rule is appropriate in statecraft can be explained by material circumstances, without mentioning relinquishment's resemblance to the models of benevolence assumed in the Ru-Mo's judgments.
(H5) When a judgment can be explained without mention of its (putative) truth, then that judgment is unjustified.
(H6) Therefore, the Ru-Mo judgment that the relinquishing of rule is appropriate in statecraft is unjustified.

Keeping in mind that the relinquishment of the sage-kings are regarded by the Ru-Mo as the very paradigms of benevolence, we can see how Han Feizi's critique cuts particularly deep. By employing alternative models of a gatekeeper and a slave (in this case, model *agents*) for not only explaining the appropriateness of relinquishment in statecraft, but also the sage-kings' very own actions, Han Feizi is able to explain the tallying of the *ming*, 'relinquish one's rule', to the *shi* of appropriateness to statecraft, without making recourse to whether this bears resemblance to the Ru-Mo's own models of benevolence. So it might well be the case that Ru-Mo morality *does* take into account natural facts, but their models are nonetheless explanatorily inert and, consequently, their judgments are unjustified.

One might observe that that Han Feizi's AEI is not dissimilar to x-phi situationist worries about Aristotelian virtue ethics, which argues from experimental record in psychology that, for a given character trait like compassion, trait-relevant behaviour is more robustly explained by situational factors than personal factors. *Pace* AI, it is precisely because "behaviour is […] *extraordinarily sensitive* to variation in circumstance" that virtue is explanatorily redundant (Doris 2002, 2, *emphasis mine*). However, this situationist conception of character traits is largely behavioural and ignores the agent's motivating reasons for actions, their "dispositions to respond appropriately—in judgment, feeling, and action," which is explanatorily central to an Aristotelian conception of virtues (Kamtekar 2004, 477). Such dispositions are thus explanatorily inert only from a perspective external to the virtuous agent, for whom variation in circumstance is itself only a factor in their exercise of practical wisdom: virtues, in fact, ensure consistency over a set of actions that may or may not overlap with those sets of actions considered within by the psychological experiments (which are set up by presumably non-virtuous agents).

Similarly, it might well be the case that—even if Han Feizi was right about the material circumstances—Yao and Shun could nevertheless have had benevolent motivating reasons for relinquishing their rule. What would be crucial is for these reasons to have greater explanatory power than material circumstances over a broader range of situations than (a presumably less-than-virtuous) Han Feizi might have picked out of the historical records. This seems to have been one common line of

argument undertaken by those who have explicitly defended Confucianism against this situationist challenge (see, e.g., Hutton 2006, Slingerland 2011, Mower 2013).[21]

Still, in what follows, we see that Han Feizi goes further to argue that, even if it were to be conceded that virtue is explanatorily fundamental for the sage-kings' actions, no one during his time could "hope to scrutinize the ways of Yao and Shun, who lived three thousand years ago" (*Han Feizi*, "Eminence in Learning," trans. Watson, 120). That is, there is *no* direct access to Yao and Shun's motivating reasons for action and, therefore, they are irrelevant models since they cannot function as sufficiently instructive standards in the pattern-recognition required for statecraft.[22]

2.3. Argument from Coincidence

The *Argument from Coincidence* (AC) is as follows (Srinivasan 2015, 333):

(P7) There is no plausible explanation of how your judgment that *p* reliably tracks the truth.
(P8) If there is no plausible explanation of how judgments in a domain track the truth in that domain, then those judgments are unjustified.
(P9) Therefore, your judgment that *p* is unjustified.

As Srinivasan notes, there is a kinship between AEI and AC in their shared focus on explanation. But the former may be denied without denying the latter. That is, we may affirm that there is still some explanatory relationship between cases of conjunctions of judgment and a truth, in spite of our ability to explain the judgment without making recourse to the truth. As such, it is not a question of resemblance to the Ru-Mo's model here, but resemblance to the model which conduces the preservation and strengthening of the state). Consider the famous passage on the stump-watcher of Song:

> 宋人有耕田者，田中有株，兔走，觸株折頸而死，因釋其耒而守株，冀復得兔，兔不可復得，而身為宋國笑。今欲以先王之政，治當世之民，皆守株之類也。
>
> There was a farmer of Song who tilled the land, and in his field was a stump. One day a rabbit, racing across the field, bumped into the stump, broke its neck, and died. Thereupon the farmer laid aside his plow and took up watch beside the stump, hoping that he would get another rabbit in the same way. But he got no more rabbits, and instead became the laughing stock of Song. Those who think they can take the ways of the ancient kings and use them to govern the people of today all belong in the category of stump-watchers! (*Han Feizi*, "The Five Vermin," trans. Watson, 98)

Given that the passage is lodged between the passages which illustrate AI and AEI in the text, it might be also read as either merely a rhetorical elaboration of the AI passage, where those who do not keep up with the times are insensitive to the truth (i.e. natural facts), or setting up for the explanatory focus of the later AEI passage. However, unlike AI, the farmer is not being insensitive to a significant change in times; and, unlike AEI, there is no counter-explanation provided.

Alternatively, the passage might be taken as a castigation of indolence, especially given how it has been distilled and propagated today in a popular Chinese idiom (守株待兔 *shouzhudaitu*). This would be resonant with a later passage in "Eminence in Learning" where Han Feizi warns that a ruler should not depend on the fortuitousness of having benevolent subjects just as one would not "depend on arrow

[21] N.b. whether Confucian ethics should be read virtue-ethically is in dispute. For those who favour such a reading, see, e.g., Sim 2007, Yu 2007, Tiwald 2010. For non-virtue-ethical readings, see, e.g., Roetz 1993, Lee 2013, Wong 2013.
[22] This is similar to John Doris' position on the moral relevance of rare, virtuous agents for the rest of us (Doris 2002).

shafts' becoming straight of themselves" (*Han Feizi*, trans. Watson, 127). But it should be observed that, as Han Feizi concludes, the rhetoric of the passage here is such that stump-watching is not compared with similar inactivity but the active use of models of the sage kings for government. Han Feizi is rather emphasizing that the former is just as efficacious as the latter in bringing about desired outcomes—which is to say not at all. So even if it was granted that following 'the ways of the ancient kings' had at some point correlated with truth, it would have been through sheer coincidence that they had done so.

Therefore, in argument form, the passage should be rendered as:

(H7) There is no plausible explanation of how Ru-Mo political judgments reliably track the truth.
(H8) If there is no plausible explanation of how judgments in a domain track the truth in that domain, then those judgments are unjustified.
(H9) Therefore Ru-Mo political judgments are unjustified.

Just as there is no plausible explanation of how watching stumps in one's field tracks rabbits running into them (the absurdity for which the farmer was laughed at), there is no plausible explanation of how models of the sage-kings reliably track what is relevant for appropriate statecraft. As such, judgments involving the sage-kings as models are unjustified.

Furthermore, a farmer "who tilled the land" would not (and has shown not to) have the relevant dispositions for ensnaring rabbits. This passage may thus also be taken as addressing the Confucian rebuttal to AEI from before: even if the sage kings had acted out of benevolent motivating reasons for actions, given that Han Feizi's audience does not have the dispositions to pick up on the situational features the sage kings were sensitive to and thus act accordingly, his audience cannot provide explanations for how a Ru-Mo judgment tracked truth in statecraft. That is, as far as Han Feizi's audience (who are less-than-virtuous) are concerned, the excellent governance of the sage kings were simply a stroke of luck (or a series of them): as model agents and actions, they merely function as empty placeholders for one's aspirations, given insufficient detail for what exactly about the models one should be tracking in attempting to match one's actions to them (cf. Hutton 2008).

Still, as some have also argued, the Ru-Mo might respond to this by appealing to the possibility of *indirect* access to the reasons for action of the sage-kings, through what Eric L. Hutton calls "practice models" (Hutton 2008, 444n51; cf. Wilson 2018). Especially in the case of the Confucians, rituals are at least partly meant to encode a pedagogical approach to the dispositions of the sage kings. The rituals are themselves means of situational manipulation, providing a bound space for access to, and the development of, the relevant character traits and practical wisdom (Slingerland 2011, Mower 2013, Robertson 2018, Wilson 2018, Stapleton 2020). That is, pattern-recognition and comportment to the models are not so much a matter of theoretical knowledge preceding practical knowledge, but the other way round. The appropriate judgments for statecraft arise from such practical knowledge.

Nevertheless, I think we can still find a rejoinder to this from Han Feizi in the opening passages of "Eminence in Learning." Note that so far, for Han Feizi's AI, AEI, and AC, the genealogical contingencies that compromise Ru-Mo judgments largely pertain to the *content* of particular judgments (which are then to be generalized to all Ru-Mo judgments). As such, it should not come as a surprise that the epistemological background of his criticisms has been thus far overlooked in most considerations of them, which centre on "The Five Vermin" (e.g. Harris 2013, Cook 2015). At the same time, the reason why the pedagogical defence might seem to be a more successful response is that it shifts the emphasis away from the presumed relevance of the then-and-there sage kings to how the knower here and now is able to retrospectively draw on the models of the sage kings for themselves. The next argument, however, attends to the genealogical contingencies of the *judges* themselves, such that even this indirect access would be considered inappropriate for statecraft.

2.4. Argument from Probability on Evidence

Consider the *Argument from Probability on Evidence* (APE), which is is as follows (Srinivasan 2015, 335):

(P10) Conditional on the relevant genealogical evidence, it is no more than 0.5 probable that your judgment that *p* is true.
(P11) If it is no more than 0.5 probable that a given one of one's judgment is true, conditional on the relevant genealogical evidence, then that judgment is unjustified.
(P12) Therefore, your judgment that *p* is unjustified.

If a judgment (for example, 'a man should not refuse to be treated like a slave'), wherever it came from, is a result of a certain development which has no causal relationship to its truth, then it is a metaphorical coin-toss for whether it is correct or incorrect (hence 0.5). And it is this improbability of Ru-Mo judgments to secure the model of even the sage-kings which we find in the opening passages of "Eminence in Learning." Here, Han Feizi provides us with a family tree (n.b. an explicit genealogy) of the various Ru-Mo schools which have branched since the time of Confucius and Mozi:

> 儒之所至，孔丘也。墨之所至，墨翟也。自孔子之死也，有子張之儒，有子思之儒，有顏氏之儒，有孟氏之儒，有漆雕氏之儒，有仲良氏之儒，有孫氏之儒，有樂正氏之儒。自墨子之死也，有相里氏之墨，有相夫氏之墨，有鄧陵氏之墨。故孔、墨之後，儒分為八，墨離為三，取舍相反、不同，而皆自謂真孔、墨，孔、墨不可復生，將誰使定世之學乎？
>
> The Confucians pay the highest honor to Confucius, the Mohists to Mozi. Since the death of Confucius, the Zizhang School, the Zisi School, the Yan Family School, the Meng Family School, the Qidiao Family School, the Zhongliang Family School, the Sun Family School, and the Yuezheng Family School have appeared. Since the death of Mozi, the Xiangli Family School, the Xiangfu Family School, and the Dengling Family School have appeared. Thus, since the death of its founder, the Confucian school has split into eight factions, and the Mohist school into three. Their doctrines and practices are different or even contradictory, and yet each claims to represent the true teaching of Confucius and Mozi. But since we cannot call Confucius and Mozi back to life, who is to decide which of the present versions of the doctrine is the right one? (*Han Feizi*, "Eminence in Learning," trans. Watson, 119)

With these schools having contrary judgments, the likelihood that any adopted Ru-Mo position arising from these developments matches that of its founder is, *ceteris paribus*, even less than a coin-toss (assuming that one of them is right). For the Confucians schools, it is 0.125; for the Mohist schools, it is 0.333. That is to say, the probability that judgments based on a given model from any Confucian school might actually represent the judgments of Confucius or any Mohist school might represent Mozi is not promising. But Han Feizi pushes the argument further to the model of the sage-kings:

> 孔子、墨子俱道堯、舜，而取舍不同，皆自謂真堯、舜，堯、舜不復生，將誰使定儒、墨之誠乎？殷、周七百餘歲，虞、夏二千餘歲，而不能定儒、墨之真，今乃欲審堯、舜之道於三千歲之前，意者其不可必乎！無參驗而必之者、愚也，弗能必而據之者、誣也。故明據先王，必定堯、舜者，非愚則誣也。
>
> Confucius and Mozi both followed the ways of Yao and Shun, and though their practices differed, each claimed to be following the real Yao and Shun. But since we cannot call Yao

> and Shun back to life, who is to decide whether it is the Confucians or the Mohists who are telling the truth?
>
> Now over seven hundred years have passed since Yin and early Zhou times, and over two thousand years since Yu and early Xia times. If we cannot even decide which of the present versions of Confucian and Mohist doctrine are the genuine ones, how can we hope to scrutinize the ways of Yao and Shun, who lived three thousand years ago? Obviously we can be sure of nothing! He who claims to be sure of something for which there is no evidence is a fool, and he who acts on the basis of what cannot be proved is an imposter. Hence it is clear that those who claim to follow the ancient kings and to be able to describe with certainty the ways of Yao and Shun must be either fools or imposters. (*Han Feizi*, "Eminence in Learning," trans. Watson, 119–20)

Filtered through historical layers of disagreement, not only do we find any Ru-Mo claim to the model of Confucius or Mozi by the existing schools to be probabilistically compromised, but also their claim to model of the sage-kings, whereupon the former model is meant to be based in the first place. The chances that the content of any given model advanced by a Confucian or Mohist school would allow one to judge as the sage-kings Yao and Shun did may be mathematically represented as follows:

If one follows a Confucian school, the probability that one judges correctly is

$$\begin{aligned} &P[(\text{Confucius is right}) \wedge (\text{a Confucian school is right})] \\ &= P(\text{Confucius is right}) \times P(\text{a Confucian school is right} \mid \text{Confucius is right}) \\ &= (0.5) \times (0.125) \\ &= \underline{0.0625} \end{aligned}$$

If one follows a Mohist school, the probability that one judges correctly is

$$\begin{aligned} &P[(\text{Mozi is right}) \wedge (\text{a Mohist school is right})] \\ &= P(\text{Mozi is right}) \times P(\text{a Mohist school is right} \mid \text{Mozi is right}) \\ &= (0.5) \times (0.333) \\ &= \underline{0.167} \end{aligned}$$

In argument form, all of the above can thus be represented as:

(H10) It is no more than 0.0625 probable that any of the disputed Confucian judgments of the existing schools or 0.167 probable that any of the disputed Mohist judgments is(putatively) true.
(H11) If it is no more than 0.5 probable that a given one of one's judgment is true, conditional on the relevant genealogical evidence, then that judgment is unjustified.
(H12) Therefore, none of the disputed Ru-Mo judgments of the existing schools are justified.

We see, therefore, that following any Ru-Mo school—whose judgments are in disagreement with each other—would result in unjustified judgments, even if the affairs of the sage-kings Yao and Shun were assumed to be appropriate models for statecraft. And given that the very paradigmatic models are in dispute, there is no way to adjudicate between the disagreement. As such, even if Confucian rituals are to be claimed as providing access to the reasons for action of Yao and Shun indirectly through the rituals, they would be unjustified.

Notably, Han Feizi's APE only targets *disputed* judgments. Yet even the Confucians and Mohists do sometimes agree in their judgments: for example, contra Han Feizi, they agree on the centrality of benevolence as a virtue for rulership. But that the scepticism is now directly targeting the contingencies of the producer of these judgments brings us closer to the final argument to be considered. The heart of the problem of Ru-Mo political judgments, for Han Feizi, is the very *method* upon which such

political judgments are generally made. That is, the method of employing the sage-kings as models is inherently *unreliable*.

3. The Master Argument from Unreliability

One way that reliability has been understood in epistemology more generally is through a notion of safety, where

> *S*'s belief in the proposition *p* is safe iff *S* could not have easily believed ¬*p* using a sufficiently similar method they use to believe *p*.

That is, one's judgment that *p* would be unreliable iff in a sufficiently similar case one believes that *p* but *p* is false. Based on this, *Argument from Unreliability* AU is as follows (Srinivasan 2015, 339):

(P13) The genealogy of your judgment that *p* constitutes strong, undefeated evidence that your judgment that *p* is unsafe.
(P14) Whenever one has strong, undefeated evidence that one of one's judgments is unsafe, one ought to abandon it.
(P15) Therefore, you ought to abandon your judgment that *p*.

So if genealogy reveals that one's appeal to a particular model is able to generate contradictory judgments in relevantly similar cases, the appeal to that model is unreliable and ought to be abandoned. This would be especially problematic for the kind of reliabilist epistemology of pattern-recognition that we are considering here for the late Warring States Period. The unreliability of one's appeal to a given model could be a result of at least three factors: (i) the particular model being used is unreliable, (ii) one's ability to use models is unreliable (such as frequently employing the wrong models), or (iii) the very method of appealing to the models of the sage-kings is itself unreliable. We see all three in a prominent passage of models generating problematic judgments:

> 澹臺子羽，君子之容也，仲尼幾而取之，與處久而行不稱其貌。宰予之辭，雅而文也，仲尼幾而取之，與處而智不充其辯。故孔子曰：「以容取人乎，失之子羽；以言取人乎，失之宰予。」故以仲尼之智而有失實之聲。今之新辯濫乎宰予，而世主之聽眩乎仲尼，為悅其言，因任其身，則焉得無失乎？是以魏任孟卯之辯而有華下之患，趙任馬服之辯而有長平之禍；此二者，任辯之失也。
>
> Dantai Ziyu had the appearance of a gentleman. Confucius, considering him promising, accepted him as a disciple but, after associating with him for some time, he found that his actions did not come up to his looks. Cai Yu's speech was elegant and refined and Confucius, considering him promising, accepted him as a disciple. But after associating with him, he found that his wisdom did not match his eloquence. Therefore Confucius said, "Should I choose a man on the basis of looks? I made a mistake with Ziyu. Should I choose a man on the basis of his speech? I made a mistake with Cai Yu." Thus even Confucius, for all his wisdom, had to admit that he judged the facts wrongly. Now our new orators today are far more voluble than Cai Yu, and the rulers of the age far more susceptible to delusion than Confucius. If they appoint men to office simply because they are pleased with their words, how can they fail to make mistakes?
>
> Wei trusted the eloquence of Meng Mao and met with calamity below Mount Hua. Zhao trusted the eloquence of Mafu and encountered disaster at Changping. These two instances show what mistakes can be made by trusting men because of their eloquence. (*Han Feizi*, "Eminence in Learning," trans. Watson, 124)

In argument form, the above can be represented as:

(H13) The genealogy of judgments that looks and eloquence imply desired actions and wisdom constitute strong, undefeated evidence that such judgments are unsafe.
(H14) Whenever one has strong, undefeated evidence that one of one's judgments is unsafe, one ought to abandon it.
(H15) Therefore, judgments that looks and eloquence imply desired actions and wisdom ought to be abandoned.

There are two instances of judgments of looks and eloquence which are being addressed here: those of Confucius and those of the rulers of the age. In the case of the former, Confucius judges that Dantai Ziyu would produce the relevant desired actions, for to say here that 'one has the relevant looks' means that one would resemble the model of the sage-kings with the desired actions. He also judges that Cai Yu would be wise, for to say here that 'one is eloquent' means that one would resemble the model of the sage-kings with wisdom. However, on the bases of these models, we find that Confucius produces judgments that are contrary to those he is otherwise expected to make. Hence, we find that (i) the particular Confucian *models* (whether agents or actions) are unreliable. This is not dissimilar to the genealogical scepticism in AI, AEI, and AC.

In the case of the latter, the rulers of the age (for example, Wei and Zhao), who would regard Confucius' affairs as a model through which they would attain the model of the sage-kings, find themselves with ostensibly less reliable judgments as they do not have the wisdom of Confucius. That is, whether or not the particular models are unreliable, (ii) their particular *act* of appealing to the models are themselves unreliable. This is, again, not dissimilar to the genealogical scepticism in APE.

But AU is especially important as a kind of genealogical scepticism that gets to the core of the reliabilist epistemology under consideration: it lends itself to a higher-order criticism of the reliability of the very method of using the models of the sage-kings as bases for political judgments. In the subtext of the passage, we understand Han Feizi to be banking on the fact that his audience hold Confucius in high regard—Han Feizi himself even seems to do so, describing Confucius as "one of the greatest sages of the world" and "truly benevolent and righteous" (*Han Feizi*, "The Five Vermin," trans. Watson, 103). And by shifting the emphasis of the criticism in these passages away from specific Ru-Mo judgments to *Confucius*' own use of such models, Han Feizi is not simply highlighting the unreliability of the particular models under consideration here, but underscoring that even *the ideal epistemic agent* (the ideal model-user) cannot reliably make reliable political judgments on the basis of such models. Importantly, this allows us to move from the claim that particular models—and hence judgments—are unreliable to the claim that (iii) the entire *method* of appealing to the models of the sage-kings is itself unreliable.

With AU, therefore, the entire method of the sage-kings shown to be unreliable *tout court*, and we can now see how it is that the particular models in each of the above genealogical arguments have turned out to be insensitive, explanatorily inert, merely coincidental, and improbable on evidence: these problems arise from taking for granted reasoning with an unsafe, unreliable method for judging political matters. AU may hence be regarded as the 'master argument', whose occurrence, we might note, is immediately followed by Han Feizi's solution:

> 觀容服，聽辭言，仲尼不能以必士；試之官職，課其功伐，則庸人不疑於愚智。
>
> […] if one were only to observe a man's features and dress and listen to his speech, then even Confucius could not be certain what kind of person he is. But if one *tries him out in government office and examines his achievements*, then even a man of mediocre judgment can tell

> whether he is stupid or wise. (*Han Feizi*, "Eminence in Learning," trans. Watson, 124–5, *emphasis mine*)

Of course, this is not an abandonment of the use of models as such, especially given the importance that *fa* has for Han Feizi's political framework. That is, he does not advocate a non-reliabilist epistemology in place of the Ru-Mo's method of judging with models of sage-kings. Rather, Han Feizi is suggesting that an enlightened ruler may sidestep all the problems of its intrinsically unreliability (and thus also AI, AEI, AC, and APE) by employing *his* approach to epistemology, one which is more directly concerned with the preservation and strengthening of the state: letting names define themselves and affairs reach their own settlement. So "whenever [the enlightened ruler] listens to any speech, [he] would hold it accountable for its utility, and when he observes any deed, [he] would seek for its merit"—instead of needing to (also) attend to its conformity to the models of the sage kings (*Han Feizi*, "Six Contrarieties [六反 *liufan*]," trans. Liao 1959b, 247). However exactly this and, more broadly, Han Feizi's own epistemology should be more substantially understood, the critique provided with the foregoing arguments, taken collectively, thus cannot simply be addressed by appeals to an expanded morality or a pedagogical approach to historical imagination, since both these still rely on the inherently unreliable models of the sage kings.

Concluding Remarks

I have argued in the above that, in addition to the extant materialist and historicist readings, Han Feizi's criticisms in "The Five Vermin" and "Eminence in Learning" would be more comprehensively appreciated if read as deploying genealogical arguments against the political recommendations of the Confucians and Mohists. And in doing so, we can better appreciate the political epistemology and extent of Han Feizi's scepticism in them, which goes beyond the responses made on behalf of at least the Confucians thus far. Further, we may note that one distinctive feature of Han Feizi's genealogical scepticism, compared to more contemporary instances of genealogical argumentation that target necessity claims (e.g. x-phi on moral claims), is that it is particularly fitted to a reliabilist-epistemological milieu and does not on its own advocate abandoning it.

That said, as mentioned at the outset, genealogical arguments are haunted by "a spectre of self-defeat" (Srinivasan 2015, 328). A key feature of a successful negative genealogy is for it to rest on more defensible epistemological grounds than those of the accounts it undermines. What is crucial in the next steps beyond this present investigation into Han Feizi's epistemology in "The Five Vermin" and "Eminence in Learning" is thus to answer how the problem of genealogical contingency from AU does not also undermine his own proposals. So if Han Feizi is to escape self-defeat, it is imperative to move from here to furnishing a substantive account of his political epistemology. In any case, I hope that these considerations would not only serve as an impetus to greater discussion on Han Feizi's epistemology, but also contribute to the increasing interest in the genealogy of the genealogical method.

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